

IN THE SUPREME COURT OF THE STATE OF DELAWARE

BRUCE L. WAPLES,	§	
	§	No. 603, 2008
Petitioner Below,	§	
Appellant,	§	Court Below—Superior Court
	§	of the State of Delaware, in and
v.	§	for Sussex County
	§	
STATE OF DELAWARE,	§	
	§	C.A. No. S08M-11-015
Respondent Below,	§	Cr. ID No. 0610029325
Appellee.	§	

Submitted: May 21, 2009

Decided: July 13, 2009

Before **STEELE**, Chief Justice, **HOLLAND** and **BERGER**, Justices

ORDER

This 13th day of July 2009, upon consideration of the appellant's opening brief and the appellee's motion to affirm pursuant to Supreme Court Rule 25(a), it appears to the Court that:

(1) The appellant, Bruce L. Waples, has filed an appeal from the Superior Court's November 26, 2008 denial of his petition for a writ of habeas corpus. The appellee, State of Delaware, has moved to affirm the judgment of the Superior Court on the ground that it is manifest on the face of Waples' opening brief that the appeal is without merit.¹ We agree and AFFIRM.

¹ Del. Supr. Ct. R. 25(a).

(2) On March 1, 2007, a Superior Court jury convicted Waples of Assault in a Detention Facility. Waples was immediately sentenced to four years at Level V imprisonment suspended after two years for one year at Level III probation.

(3) As a result of his March 1 assault conviction, Waples was adjudged guilty on March 16, 2007 of violation of probation. Waples was immediately sentenced to one year at Level V imprisonment suspended for six months at Level IV VOP Center.

(4) On November 25, 2008, Waples filed a petition for a writ of habeas corpus. Waples' petition recites the terms of his March 1, 2007 sentence and references, without further comment or argument, title 11, section 3901(a) of the Delaware Code, which provides that a prison term "shall be fixed, and the time of its commencement and ending specified."²

(5) By order dated November 26, 2008, the Superior Court denied Waples' habeas corpus petition. This appeal followed.

(6) On appeal, Waples argues that his "sentence for violation of probation is illegal because the commencement of the probation was indefinite." Second, Waples argues that his assault of a correctional officer during his incarceration at the VOP Center could not have formed the basis of a violation of probation.

² Del. Code Ann. tit. 11, § 3901(a) (2007).

(7) Waples has asserted no basis for the issuance of a writ of habeas corpus. In Delaware, the writ of habeas corpus provides relief on a limited basis. Habeas corpus relief is available only to ensure that the prisoner is held pursuant to a legally valid commitment issued by a court of competent jurisdiction.³ Waples has failed to demonstrate that his commitment is irregular on its face or that the Superior Court lacked jurisdiction to convict and sentence him on March 1, 2007 and March 16, 2007.

(8) It is manifest on the face of the opening brief that this appeal is without merit. The issues on appeal are controlled by settled Delaware law and, to the extent that judicial discretion is implicated, there was no abuse of discretion.

NOW, THEREFORE, IT IS ORDERED that the motion to affirm is GRANTED pursuant to Supreme Court Rule 25(a). The judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Randy J. Holland
Justice

³ Del. Code Ann. tit. 10, § 6902(1) (1999); *Hall v. Carr*, 692 A.2d 888 (Del. 1997); *Curran v. Woolley*, 104 A.2d 771 (Del. 1954).